

Service Date: December 19, 1995

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF the Application)	UTILITY DIVISION
of MOUNTAIN WATER COMPANY for)	
Authority to Increase Rates and)	DOCKET NO. 94.10.46
Charges for Water Services to)	
its Superior, Montana customers.)	ORDER NO. 5827b
IN THE MATTER OF THE COMPLAINT OF)	
Customers of Mountain Water)	DOCKET NO. 94.12.62
Company, Superior, Montana,)	
Complainants,)	
-vs-)	
Mountain Water Company,)	ORDER NO. 5876a
Defendant.)	

FINAL ORDERS

ACCEPTING STIPULATION AND CLOSING COMPLAINT DOCKET

APPEARANCES

FOR THE APPLICANT:

John Alke, Attorney at Law, Hughes, Kellner, Sullivan & Alke,
P.O. Box 1166, Helena, Montana 59624

FOR THE INTERVENORS:

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West
Sixth Avenue, P.O. Box 201703, Helena, Montana 59620-1703

FOR THE COMMISSION:

Denise Peterson, Staff Attorney, and Ron Woods, Rate Analyst,
1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-
2601

BEFORE:

BOB ROWE, Commissioner and Hearing Examiner

Pursuant to § 2-4-621, Montana Code Annotated (MCA), the hearings examiner issued Proposed Order Nos. 5827a and 5876 on November 13, 1995, accepting the stipulation in Docket No. 94.10.46 and closing the service complaint Docket 94.12.62. No exceptions to the Proposed Orders were filed. The Applicant, however, in response to Order No. 5871 in Docket D95.10.154, requested that the final order in Docket 94.10.46 reflect the \$82.00 revenue reduction required in Order No. 5871. The Commission finds that the Proposed Order, as amended by Order No. 5871, was supported by substantial evidence and adopts the hearings examiner's proposed findings, conclusions and decision as follows.

BACKGROUND

1. On October 31, 1994 Mountain Water Company (Applicant or Mountain Water) filed an application with the Montana Public Service Commission (PSC or Commission) for authority to increase water rates and charges for its Superior, Montana, customers on a permanent basis by approximately 33.0 percent, for a revenue increase of approximately \$38,818.

2. On December 15, 1994 consumers in Mountain Water's Superior, Montana service area filed complaints alleging that Mountain Water should not be allowed a rate increase because Mountain Water was providing inadequate service. The complaint alleged that (1) Mountain Water was not providing adequate flows for fire protection; (2) the interiors of main lines were deteriorating, producing debris in water; (3) chlorinating the water supply was not necessary and should be discontinued or chlorine residual levels should be reduced; and (3) Mountain Water had undertaken no major capital improvements to the system to correct system deficiencies.

3. The Commission docketed the consumer complaints separately from the rate proceeding as a formal complaint against Mountain Water (Docket No. 94.12.62) to be processed under the Commission's rules of procedure for formal complaints.

4. On July 19, 1995 Mountain Water filed an application with the Commission for an order approving a stipulated settlement to its pending water rate increase for the Superior Division. The parties to the proposed settlement are the Montana Consumer Counsel (MCC) and Mountain Water. The stipulation proposes that the Commission authorize Mountain Water a permanent revenue increase of \$34,571, generated by increasing the flat and metered rates by 42.5% and replacing the declining block sprinkling rates with a constant rate per 100 square feet of irrigated area. The stipulation also provides that Mountain Water be allowed to implement a discount for certain customers, and that it be allowed to account for Other Post Employment Benefits (OPEBs) in accordance with Financial Accounting Standards Board, Statement 106 (FASB 106).

5. On October 10, 1995 the Commission held concurrent public hearings on the stipulation and the service complaint at the Law Enforcement Center, County Commissioners Conference Room, 300 River Street, Superior, Montana. The Commission heard argument and took evidence on the adequacy of service complaint and on whether adoption of the stipulated settlement by the Commission would be in the public interest.

FINDINGS OF FACT

6. The Complainants presented the testimony of Gordon Hendrick, Mayor of the Town of Superior and Dennis Hildebrand, customer of Mountain Water and Assistant Volunteer Fire Chief. Mountain Water responded with the testimony of Arvid Hiller, General Manager of Mountain Water Company.

7. The complainants did not provide testimony regarding the financial merits of the adoption of the proposed settlement. Their testimony centered on the ability of subscribers to pay for and the need for Mountain Water to make capital improvements to the water system. These witnesses identified specific system improvements that Mountain Water should undertake to correct system

deficiencies: increase fire flows to the commercial zone, hospital and schools; eliminate the debris problem that is most acute on the north side; improve water pressure; and efficiently operate and monitor the chlorination system.

8. During cross-examination, Mayor Hendrick and Mr. Hildebrand were asked if the complainants had communicated what they determined were system deficiencies to Mountain Water. Both witnesses responded that prior to the filing of this rate increase application neither the Town nor the fire department had initiated discussions with Mountain Water regarding the system deficiencies.

The witnesses stated that after the filings of the rate increase and the complaint, the Town met with Mountain Water. The meeting resulted in some system improvements. This dialog with Mountain Water resulted in Mountain Water preparing and presenting the Town with three possible capital improvement scenarios. The proposed capital improvement programs would correct the system deficiencies in whole or in part depending on the ability of consumers to pay for the improvements, according to the testimony.

9. The complainants stated, with qualification, that the dialogue with Mountain Water and Mountain Water's initiation of improvements to the system satisfied their service complaint against Mountain Water. The complainants indicated that if Mountain Water would commit to continuing discussion with the Town and make identified capital improvements arising from the cooperative effort, they were satisfied.

10. Mr. Hiller stated that Mountain Water was interested in continuing the collaborative process. He further indicated that Mountain Water was willing to dedicate the time and resources necessary to develop a mutually acceptable capital improvement program. However, he emphasized that the Town should understand that improvements will result in increased costs which Mountain Water would recover from ratepayers. He expressed Mountain Water's recognition that it needed to take into consideration the ability of the Town's residents to pay for any improvement program adopted.

11. Based on the testimony the Commission finds that the complaints outlined in Docket No. 94.12.62 are satisfied and that the Docket should be closed.

12. With satisfaction of the service complaint, the Commission can now address the stipulation and settlement proposal of Mountain Water and MCC. The terms of the stipulation and settlement for revenue requirement considerations are expressed as a general conclusion disposing of all issues and do not specifically address the issues in the Docket. The stipulated revenue requirement compensates Mountain Water based on its existing investment in the water system and its current costs of providing service.

13. The Commission has evaluated the stipulation and settlement and approves the stipulation with the following qualification: this Order is not a ruling on any specific issue, nor an analysis of arguments in the Docket. The "affordable" water rate schedule approved by acceptance of the stipulation is a ratemaking experiment. Because of the experimental nature of this rate schedule, the Commission finds that Mountain Water should file annual benefit/cost reports, with the first report due February 1, 1997. Mountain Water is directed to cooperate with the Commission staff and all other parties to this Docket in developing the form and content of the required report.

CONCLUSIONS OF LAW

1. The Applicant, Mountain Water Company, is a public utility as defined in § 69-3-101, Montana Code Annotated (MCA). The Montana Public Service Commission exercises jurisdiction over Applicant's rates and service pursuant to § 69-3-102, MCA.

2. The Commission exercises jurisdiction over complaint proceedings, pursuant to §§ 69-3-321, 69-3-325, 69-3-326 and 69-3-330, MCA and the Commission's rules in the Administrative Rules of Montana (ARM), Title 38, Chapter 2, Sub-Chapter 21.

3. The Commission has provided adequate public notice and an opportunity to be heard as required by § 69-3-303, MCA, and Title 2, Chapter 4, MCA.

4. The rates and rate structure approved in this order, as stipulated, are just and reasonable. §§ 69-3-201, and 69-3-330, MCA.

ORDER

WHEREFORE, THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The tariffs, Appendix A of the stipulation filed by Mountain Water Company, implementing the terms and conditions of the stipulation are hereby approved, as amended by Order No. 5871.

2. The tariffs shall be effective for services rendered on and after January 1, 1996.

3. Mountain Water shall file with the Commission annually a benefit/cost report regarding the "affordable" water rate schedule, beginning February 1, 1997.

4. The complaint against Mountain Water for inadequate service and facilities is closed as satisfied. Mountain Water and the residents of Superior are encouraged to continue their cooperative effort to develop an improvement program that is both affordable and provides adequate facilities.

DONE IN OPEN SESSION at Helena, Montana, this 18th day of December, 1995.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.